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13  
14 THE UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
16

17 **BALBOA CAPITAL CORPORATION,**  
a California corporation,

18 Plaintiff,

19 vs.

20 **PACIFIC LOGGING & PROCESSING**  
21 **INC.,** a Washington profit corporation;  
and **DARREN HALL,** an individual,

22 Defendants.  
23  
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26  
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Case No. 8:24-cv-02082-FWS (KESx)

[Assigned to the Hon. Fred W. Slaughter]

**BALBOA CAPITAL  
CORPORATION'S MOTION FOR  
DEFAULT JUDGMENT AGAINST  
DEFENDANTS DARREN HALL  
AND PACIFIC LOGGING &  
PROCESSING INC.**

Complaint Filed: September 25, 2024

1 TO THE COURT, ALL PARTIES, AND ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 24, 2025, at 1:30 p.m., or as soon  
3 thereafter as the matter may be heard, in Courtroom 10D of the Ronald Reagan  
4 Federal Building and Courthouse, located at 411 W 4th St, Santa Ana, CA 92701,  
5 the Honorable Fred W. Slaughter presiding, plaintiff Balboa Capital Corporation  
6 (“Plaintiff” or “Balboa”) will, and hereby does, apply for an entry of default  
7 judgment pursuant to Federal Rules of Civil Procedure Rule 55 and Local Rules 55-  
8 1, 55-2, and 55-3, against defendant Darren Hall, an individual (“Hall”), and Pacific  
9 Logging & Processing Inc. (“Pacific”) (collectively with Hall, “Defendants”), for a  
10 judgment amount of \$100,934.20.

11 PLEASE TAKE FURTHER NOTICE that Balboa seeks a default judgment  
12 against Defendants in the total amount of \$100,934.20, as Balboa has established  
13 (a) a sum certain due and owing by Defendants to Balboa pursuant to the  
14 Settlement and Release Agreement entered into by Defendants and Balboa; (b) that  
15 Defendants are not in the military service and is neither a minor or incompetent  
16 person; and (c) costs and attorneys’ fees are properly awardable.

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1 PLEASE TAKE FURTHER NOTICE that this motion is based on this  
2 Notice of Motion, the supporting Memorandum of Points and Authorities, the  
3 supporting declarations of Patty W. Chen and Don Ngo, and the exhibits attached  
4 thereto, the pleadings and papers filed in this action, and upon such further briefing,  
5 authorities, and argument submitted to the Court prior to, or during, the hearing on  
6 this matter.

7  
8 DATED: March 26, 2025 SALISIAN | LEE LLP

9  
10 By: 

11 Neal S. Salisian  
12 Patty W. Chen  
13 Jared T. Densen

14 Attorneys for Plaintiff  
15 BALBOA CAPITAL CORPORATION  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND RELEVANT FACTS**

Plaintiff Balboa Capital Corporation (“Plaintiff” or “Balboa”) submits the instant Motion for Default Judgment against defendants Darren Hall, an individual (“Hall”), and Pacific Logging & Processing Inc. (“Pacific”) (collectively with Hall, “Defendants”).

**a. The Settlement and Release Agreement.**

This action involves a claim for damages by Balboa against Defendants for breach of the Settlement Release Agreement (the “SRA”). [See Declaration of Don Ngo (“Ngo Decl.”), ¶3, Exh. A.] Specifically, Balboa, on the one hand, Defendants, on the other, entered into the SRA on or about May 16, 2022. [See *id.*] Under the terms of the SRA, Defendants agreed to make fifty-two (52) monthly payments of \$3,135.16 on the 22nd of each month, beginning June 22, 2022, for a total of \$163,028.32 to settle the breach of Equipment Financing Agreement No. 300259-002 (the “EFA”). [See *id.*]

The last payment received by Balboa was credited toward the payment due for May 22, 2024. [See *id.*, ¶4, Exh. B.] Therefore, on June 22, 2024, Defendants breached the SRA by failing to make the monthly payment due on that date, and thus, have remained continuously in default. [See *id.*]

At the time of Defendants’ default, there remained twenty-eight (28) monthly payments under the SRA for the EFA, for a total of **\$87,784.48**, due to Balboa. [See *id.*, ¶5.]

In addition, based on the amount due of \$87,784.48, Balboa is entitled to prejudgment interest at the statutory rate of ten percent (10%) pursuant to Civ. Proc. Code § 3289, from June 22, 2024, the date of breach, to April 24, 2025, the date noticed for the hearing of this Motion for Default Judgment for a total interest amount of **\$7,383.35**, accruing at a rate of **\$24.05 per day**, until the entry of

1 judgment. [*See id.*, ¶6; *see also* Declaration of Patty W. Chen (“Chen Decl.”), ¶¶8-  
2 9.]

3 **b. Attorneys’ Fees and Costs**

4 Pursuant to Section 8.16 of the SRA, Balboa is entitled to recover its  
5 attorneys’ fees and costs of the SRA sued upon herein from Defendants. [*See* Chen  
6 Decl., ¶10, Exh. A.] The amount of reasonable attorneys’ fees is fixed by Local  
7 Rule 55-3, in the sum of **\$5,111.37** for the SRA. [*See id.*] Balboa has indeed  
8 incurred **\$655.00**, in recoverable costs - \$405.00 filing fee for the Complaint,  
9 \$125.00 for the service of process fees for Pacific Logging and \$125.00 for the  
10 service of process fees for Hall. [*See id.*]

11 **c. Default Judgment Motion**

12 Balboa’s Default Motion satisfies the procedural requirements of Local Rule  
13 55-1 and 55-2, and Federal Rule of Civil Procedure 55(b). Balboa filed its  
14 Complaint and case-initiating documents on September 25, 2024. [*See* Dkts. 1-4.]  
15 Defendants were properly served on November 3, 2024, pursuant to Federal Rule of  
16 Civil Procedure 4. [*See* Dkt. 13.] On December 26, 2024, Balboa filed its Request  
17 for Clerk to Enter Default against Defendants (“Default Entry Request”), and the  
18 Clerk entered default against Defendants on January 2, 2025. [*See* Dkts. 14-15.]

19 On January 5, 2025, Defendants filed a Declaration and Notice of Hearing,  
20 which the Court construed as a Motion to Set Aside Default. [*See* Dkts. 17-19.]

21 On January 24, 2025, Balboa had filed its Motion for Default Judgment  
22 against defendants Hall and Pacific as ordered by the Court (the “Motion.”) [*See*  
23 Dkt. 16.]

24 On January 27, 2025, the Court granted the Motion to Set Aside Default for  
25 defendant Hall only as defendant Pacific was not properly represented by counsel.  
26 [*See* Dkt. 25.] Because the Court set aside the default against defendant Hall, the  
27 Court denied the Motion without prejudice as to refiling if “default against  
28 [defendant] Hall is entered in the future.” [*See id.*] As to defendant Pacific, the



1 Court denied the Motion without prejudice because “the Complaint’s factual  
2 allegations and legal theories require uniform liability between Pacific [] and Hall,  
3 and the default against Hall has been set aside.” [See *id.*] However, the Clerk’s  
4 entry of default against defendant Pacific was “unaffected by [the Court’s] Order.”  
5 [See *id.*] The Court further directed the parties to meet and confer in good faith  
6 regarding the resolution of this matter, and directed defendant Hall to file a  
7 response to the Complaint on or before March 10, 2025 if the parties did not find a  
8 resolution. [See *id.*] The parties met and conferred and were unable to come to a  
9 resolution. [See Chen Decl., ¶ 5.]

10 On March 10, 2025, defendant Hall did not respond to Balboa’s Complaint as  
11 directed by the Court. [See *id.*, ¶ 6; See also Dkt. 25.] Accordingly, on March 11,  
12 2025, the Court re-entered default against defendant Hall for his failure to respond.  
13 [See Dkt. 26.]

14 Defendant Pacific is a Washington profit corporation, and is not a minor,  
15 incompetent person, or a person in military service or otherwise exempted from  
16 default judgment under the Servicemembers Civil Relief Act of 1940 (the  
17 “SCRA”). [See Chen Decl., ¶7.] Defendant Hall is not a minor, incompetent  
18 person, or a person in military service or otherwise exempted from default  
19 judgment under the SCRA. [See *id.*, Exh. C.]

20 Moreover, this Court has subject matter jurisdiction over the instant action.  
21 The amount in controversy, as alleged in the Complaint and as set forth herein,  
22 exceeds \$75,000. [See Dkt. 1.] Plaintiff Balboa was and still operates as a  
23 California corporation, with its principal place of business in Orange County,  
24 California. [See *id.*; see also Chen Decl., ¶11.] Accordingly, Balboa is a citizen of  
25 the State of California. [See *id.*]

26 Based upon my office’s research, and information and belief, defendant  
27 Pacific is a Washington profit corporation with its principal place of business in  
28 Washington. [See Chen Decl., ¶12.] Thus, defendant Pacific is a citizen of the State

1 of Washington. [*See id.*] Based upon my office’s research, and information and  
2 belief, including the Driver’s License Hall submitted to Balboa, defendant Hall is  
3 domiciled in Centralia, Washington 98531. [*See id.*] Thus, defendant Hall is  
4 citizen of the State of Washington. [*See id.*] As such, there exists complete  
5 diversity amongst the parties. [*See id.*, ¶13.]

6 As set forth below, a default judgment should be entered against each  
7 defendant since Balboa satisfies all seven factors under *Eitel*. Moreover, Balboa  
8 has adequately proven its damages. Thus, Balboa respectfully requests that this  
9 Court grant its request for a default judgment against Defendants in the amount of  
10 **\$100,934.20**.

## 11 **II. LEGAL ARGUMENT**

12 “When a party against whom a judgment for affirmative relief is sought has  
13 failed to plead or otherwise defend,” the Court may enter a judgment of default  
14 upon Plaintiff’s application after an entry of default. *See* Fed. R. Civ. P. 55. Local  
15 Rule 55 sets forth the procedural requirements that must be satisfied by a party  
16 moving for a default judgment. Balboa’s Motion has satisfied such requirements.

17 Here, Balboa filed its Complaint and case-initiating documents on September  
18 25, 2024. [*See* Dkts. 1-4.] Defendants were properly served on November 3, 2024,  
19 pursuant to Federal Rule of Civil Procedure 4. [*See* Dkt. 13.] On December 26,  
20 2024, Balboa filed its Default Entry Request, and the Clerk entered default against  
21 Defendants on January 2, 2025. [*See* Dkts. 14-15.]

22 On January 5, 2025, Defendants filed a Declaration and Notice of Hearing,  
23 which the Court construed as a Motion to Set Aside Default. [*See* Dkts. 17-19.]

24 On January 24, 2025, Balboa filed a Motion for Default against defendant  
25 Hall, and another Motion for Default Judgment against defendant Pacific pursuant  
26 to the Court’s January 3, 2025 (In Chambers) Order. [*See* Dkts. 16, 23-24.]

27 On January 27, 2025, the Court granted the Motion to Set Aside Default for  
28 defendant Hall only as defendant Pacific was not properly represented by counsel.

1 [See Dkt. 25.] The Clerk’s entry of default against defendant Pacific was  
2 “unaffected by [the Court’s] Order.” [See *id.*] The Court directed the parties to  
3 meet and confer in good faith regarding the resolution of this matter, and further  
4 directed defendant Hall to file a response to the Complaint on or before March 10,  
5 2025 if the parties did not find a resolution. [See *id.*] The parties met and conferred  
6 and were unable to come to a resolution. [See Chen Decl., ¶ 5.]

7 On March 10, 2025, defendant Hall did not respond to Balboa’s Complaint.  
8 [See *id.*, ¶ 6.] On March 11, 2025, the Court re-entered default against defendant  
9 Hall for his failure to respond to Balboa’s Complaint. [See Dkt. 26.]

10 Defendant Pacific is a Washington profit corporation, and is not a minor,  
11 incompetent person, or a person in military service or otherwise exempted from  
12 default judgment under the SCRA. Defendant Hall is not a minor, incompetent  
13 person, or a person in military service or otherwise exempted from default  
14 judgment under the SCRA. [See Chen Decl., ¶4, Exh. C.]

15 The Ninth Circuit follow the seven *Eitel* factors in deciding whether to enter  
16 a default judgment:

17 (1) the possibility of prejudice to the plaintiff; (2) the merits  
18 of plaintiff’s substantive claim; (3) the sufficiency of the  
19 complaint; (4) the sum of money at stake in the action; (5)  
20 the possibility of a dispute concerning material facts; (6)  
whether the default was due to excusable neglect; and (7)  
the strong policy underlying the Federal Rules of Civil  
Procedure favoring decisions on the merits.

21 *Eitel v. McCool*, 782 F. 2d 1470, 1471-72 (9th Cir. 1986). A plaintiff need not  
22 prove that all seven factors weigh in its favor, as courts *may* consider these factors  
23 in their discretion on whether to enter a default judgment. *See id.*

24 Here, the underlying facts in this action show that all seven of the *Eitel*  
25 factors weigh in Balboa’s favor and thus support the entry of default judgment.  
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1           **A. Plaintiff Will Be Highly Prejudiced If Its Default Judgment**  
2           **Motion Is Denied.**

3           A situation in which a plaintiff will be without any other recourse or recovery  
4           should its default judgment application be denied qualifies as prejudice. *See*  
5           *PepsiCo, Inc. v. Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002).

6           Here, Balboa has submitted its Default Motion as a last resort due to  
7           Defendants' deliberate unwillingness to engage in the action after filing the  
8           Declaration and Notice of Hearing, which the Court construed to be a Motion to Set  
9           Aside Default. [*See* Dkts. 17-19.]

10          The fact remains that Defendants, pursuant to the SRA, agreed to make fifty-  
11          two (52) monthly payments of \$3,135.16, for which twenty-eight (28) monthly  
12          payments, for a total of **\$87,784.48**, still remained due to Balboa at the time of  
13          Defendants' default. [*See* Ngo Decl., ¶¶3-5, Exh. A.]

14          Balboa has made demands for its monies from Defendants, all of which  
15          Defendants have failed to pay back. [*See id.*, ¶7.] Balboa filed its Complaint in this  
16          action to recover the monies owed on it.

17          Through their inaction, Defendants have made it clear that they will not be  
18          participating further in this action. After the Court set aside the entry of default  
19          against defendant Hall, he has since failed to engage in this action by filing a timely  
20          response as ordered by this Court. [*See* Dkts. 26-27.] Further, defendant Pacific has  
21          similarly failed to properly respond or otherwise participate in this action through  
22          legal counsel as required by Central District of California Local Rule 83-2.2.2. *See*  
23          *Foley v. Allied Interstate, Inc.*, 312 F. Supp. 2d 1279, 1283 (C.D. Cal. 2004); *see*  
24          also *In re Highley*, 459 F.2d 554, 555 (9th Cir. 1972) ("A corporation can appear in  
25          a court proceeding only through an attorney at law."); *Rowland v. Cal. Men's*  
26          *Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201-02 (1993) ("It has been  
27          the law for the better part of two centuries . . . that a corporation may appear in the  
28          federal courts only through licensed counsel.").

1 Balboa's Default Motion is its final option for an attempt at recovery, and  
2 without the Court granting the default judgment, Balboa will be prejudiced and be  
3 denied its right to a judicial resolution of its presented claims given Defendants'  
4 refusal to engage in this action on the merits of the case. *See PepsiCo*, 238 F. Supp.  
5 2d at 1177.

6 If Balboa's Default Motion is denied, it will suffer a significant loss due to  
7 no fault of its own, and Defendants will obtain a significant windfall of over  
8 \$100,934.20. Not only will the deliberate nonaction by Defendants and their  
9 continued stalling techniques be unjustly rewarded, but Balboa will effectively be  
10 penalized for its procedurally proper demands for the return of its monies available  
11 through the court system's proper channels.

12 Balboa will be substantially prejudiced, especially with no other available  
13 recourse, should its Default Motion be denied, and thus, further support the Default  
14 Motion against Defendants to be granted by this Court.

15 **B. Plaintiff Has A High Likelihood Of Success On The Merits Of Its**  
16 **Substantive Claims And Its Complaint Is Sufficiently Pled.**

17 "The general rule of law is that upon default[,] the factual allegations of the  
18 complaint, except those relating to the amount of damages, will be taken as true."  
19 *Geddes v. United Fin. Group*, 559 F.2d 557, 560 (9th Cir. 1977). Courts often  
20 consider the second (merits of the claim) and third (sufficiency of the complaint)  
21 factors under *Eitel* together. *See PepsiCo*, 238 F. Supp. 2d at 1177.

22 The elements for a breach of contract are: (1) the existence of a contract, (2)  
23 performance by the plaintiff of its obligations under the contract, (3) breach of the  
24 contract by the defendant, and (4) resulting damages proximately caused by the  
25 Defendants' breach of contract. *Reichert v. Gen. Ins. Co.*, 68 Cal.2d 822, 830  
26 (1968); *Acoustics, Inc. v. Trepte Constr. Co.*, 14 Cal.App.3d 887, 916 (1971); *see*  
27 *also* Civ. Code §§ 1620, 3300; and RESTATEMENT 2d. CONTRACTS § 235(2).  
28

1 Here, all elements are met. Specifically, Balboa, on the one hand, and  
2 Defendants, on the other, entered into the SRA on or about May 16, 2022. [See  
3 Ngo Decl., ¶3, Exh. A.] Under the terms of the SRA, Defendants agreed to make  
4 fifty-two (52) monthly payments of \$3,135.16 on the 22nd of each month,  
5 beginning June 22, 2022, for a total of \$163,028.32 to settle for breach of the EFA.  
6 [See *id.*]

7 The last payment received by Balboa was credited toward the payment due  
8 for May 22, 2024. [See *id.*, ¶4, Exh. B.] Therefore, on June 22, 2024, Defendants  
9 breached the SRA by failing to make the monthly payment due on that date, and  
10 thus, have remained continuously in default. [See *id.*]

11 At the time of Defendants' default, there remained twenty-eight (28) monthly  
12 payments under the SRA for the EFA, for a total of **\$87,784.48**, due to Balboa.  
13 [See *id.*, ¶5.]

14 There is no doubt, and it cannot be disputed that: (1) Balboa and Defendants  
15 entered into the SRA; (2) Defendants ceased making payments pursuant to the  
16 SRA; and (3) Balboa has suffered and continues to suffer damages due to  
17 Defendants' continued nonpayment under the SRA. Thus, Balboa has a  
18 substantially high likelihood in succeeding on the merits of its claims. In fact, no  
19 known defenses exist to any of the material facts.

20 **C. The Sum Of Money At Stake Favors An Entry Of A Default**  
21 **Judgment Against Defendant.**

22 As a general rule, courts factor the sum of money at stake on a case-by-case  
23 basis, and in relation to the other factors influencing whether to enter default  
24 judgment. *See Eitel*, 782 F.2d at 1472 (default judgment was denied where plaintiff  
25 was seeking \$3 million in damages *and* the parties disputed material facts). This  
26 requires the court to assess whether the recovery sought is proportional to the harm  
27 caused by Defendants' conduct. *See Walters v. Statewide Concrete Barrier, Inc.*,  
28 No. C 04-2559 JSW, 2006 WL 2527776, at \*4 (N.D. Cal. Aug. 30, 2006) (“[i]f the



1 sum of money at issue is reasonably proportionate to the harm caused by the  
2 Defendants' actions, then default judgment is warranted").

3 In *Penpower Tech, Ltd. v. S.P.C. Tech.*, 627 F. Supp. 2d 1083 (N.D. Cal.  
4 2008), despite reasoning that plaintiff's request for \$677,075.37 in treble damages,  
5 \$500,000.00 in punitive damages, \$100,000.00 in statutory damages, attorneys'  
6 fees of \$16,497.00, and costs of \$2,005.00, were "speculative" and weighed against  
7 default judgment, the court nevertheless granted plaintiff's default judgment.

8 Here, Balboa seeks compensatory damages pursuant to the SRA in the  
9 amount of **\$87,784.48**; prejudgment interest from June 22, 2024, the date of breach,  
10 to April 24, 2025, the date noticed for the hearing of this Motion for Default  
11 Judgment, in the amount of **\$7,383.35**, plus **\$24.05 per day** until the entry of  
12 judgment; statutory attorneys' fees, in the amount of **\$5,111.37**; and costs in the  
13 amount of **\$655.00**. [See Chen Decl., ¶¶5-7, Exh. D.] The damages sought are  
14 contractually-based and arise out of the clear terms and obligations of the SRA and  
15 the attorneys' fees requested are fixed by Local Rule 55-3. [See *id.*]

16 As such, the sum of money sought is reasonable and far from speculative. It  
17 is also substantially less than the \$3 million sought in *Eitel*, in which this sum, and  
18 other factors, weighed in the favor of denying default judgment. And it is also  
19 substantially less than the roughly \$1.3 million sought in *Penpower Tech*, in which  
20 default judgment was granted, despite the sum of money being deemed  
21 "speculative."

22 Thus, the sum of money sought in this action weighs in the favor of granting  
23 default judgment, especially in the light of the other seven *Eitel* factors, and due to  
24 the certainty and reasonableness of the sum.

25 **D. There Are No Material Facts That Are Reasonably In Dispute.**

26 "The general rule of law is that upon default[,], the factual allegations of the  
27 complaint, except those relating to the amount of damages, will be taken as true."  
28 See *Geddes, supra*, 559 F.2d at 560. Where a plaintiff's complaint is well-pleaded

1 and the defendants make no effort to properly respond, the likelihood of disputed  
2 facts is very low. *See Landstar Ranger, Inc. v. Parth Enters, Inc.*, 725 F. Supp. 2d  
3 916, 921 (C.D. Cal. 2010).

4 As thoroughly detailed in Section II.B., *supra*, there are no material facts that  
5 are reasonably in dispute.

6 Here, specifically, Balboa, on the one hand, and Defendants, on the other,  
7 entered into the SRA on or about May 16, 2022. [*See* Ngo Decl., ¶3, Exh. A.]  
8 Under the terms of the SRA, Defendants agreed to make fifty-two (52) monthly  
9 payments of \$3,135.16 on the 22nd of each month, beginning June 22, 2022, for a  
10 total of \$163,028.32 to settle for breach of the EFA. [*See id.*, Exh. A.]

11 The last payment received by Balboa was credited toward the payment due  
12 for May 22, 2024. [*See id.*, ¶4, Exh. B.] Therefore, on June 22, 2024, Defendants  
13 breached the SRA by failing to make the monthly payment due on that date, and  
14 thus, have remained continuously in default. [*See id.*]

15 At the time of Defendants' default, there remained twenty-eight (28) monthly  
16 payments under the SRA for the EFA, for a total of **\$87,784.48**, due to Balboa.  
17 [*See id.*, ¶5.]

18 Defendants cannot dispute any of the facts in any way or make any  
19 reasonable arguments surrounding any of the material facts in this action as seen in  
20 defendant Hall's failure to timely respond to the Complaint after the Court set aside  
21 the entry of default against him, and defendant Pacific's failure to participate in this  
22 action through legal counsel despite being properly served and notified of this  
23 action. *See Foley*, 312 F. Supp. 2d at 1283; *In re Highley*, 459 F.2d at 555;  
24 *Rowland*, 506 U.S. at 201-02.

25 **E. Defendants' Default Is Not The Result Of Excusable Neglect.**

26 Excusable neglect is not found where a defendant who was properly served  
27 simply ignored the deadline to respond. *See NewGen, LLC v. Safe Cig, LLC*, 804  
28 F.3d 606, 616 (9th Cir. 2016) (adding that Defendants' counsel contacting



1 plaintiff's counsel after default had been entered did not constitute to "excusable  
2 neglect").

3 In fact, courts have required some showing of good faith by the defaulted  
4 defendant to constitute "excusable neglect." *See Eitel*, 782 F.2d at 1471-72  
5 (Defendants' failure to answer was held to be excusable neglect in light of ongoing  
6 settlement negotiations); *Draper v. Coombs*, 792 F.2d 915, 924 (9th Cir. 1986)  
7 (finding excusable neglect where defendant filed an answer past the deadline and  
8 on the same day that the motion for default judgment was filed); *O'Connor v. State*  
9 *of Nevada*, 27 F.3d 357, 364 (9th Cir. 1994) (excusable neglect was found where  
10 defendant has good faith of a timely answer); *Educational Serv., Inc. v. Maryland*  
11 *State Board for Higher Education*, 710 F.2d 170, 176 (4th Cir. 1983) (excusable  
12 neglect found where defendant had appeared in the action and opposed a request for  
13 a preliminary injunction in which the party had set forth its defenses); *McKnight v.*  
14 *Webster*, 499 F. Supp. 420, 424 (E.D. PA 1980) (excusable neglect found where  
15 defendant sought an extension of time to respond, but a default judgment was  
16 sought in the interim).

17 Where the defendants "were properly served with the Complaint, the notice  
18 for the entry of default, as well as documents in support of the instant [default  
19 judgment application]," favors this factor for the entry of default judgment. *See*  
20 *Shanghai Automation Instrument Co. Ltd. v. Kuei*, 194 F. Supp. 2d 995, 1005 (N.D.  
21 Cal. 2001).

22 Here, Defendants were served with the Complaint and Summons on  
23 November 3, 2024, by personal service upon defendant Hall, as an individual and  
24 as the registered agent for service of process of defendant Pacific, at 8 Russell  
25 Road, Oakville, WA 98568. [See Dkts. 12-13.] Further, Defendants were  
26 additionally served at the same address thereafter with the Default Entry Request.  
27 [See Dkt. 14.]  
28

1 It is indisputable that Defendants were notified of this action as they filed a  
2 Declaration and Notice of Hearing in this matter, which the Court construed as a  
3 Motion to Set Aside Default. [See Dkts. 17-19.]

4 After the Court granted defendant Hall's Motion to Set Aside Default, he has  
5 chosen not to engage in this action or file an answer to Balboa's Complaint despite  
6 the Court's order directing him to file a response by March 10, 2025. [See Dkts. 26-  
7 27.] Similarly, defendant Pacific has failed to properly respond or otherwise  
8 participate in this action through legal counsel as required by Central District of  
9 California Local Rule 83-2.2.2. *See Foley*, 312 F. Supp. 2d at 1283. ; *In re Highley*,  
10 459 F.2d at 555; *Rowland*, 506 U.S. at 201-02. Such facts do not warrant a finding  
11 of excusable neglect. *See NewGen*, 804 F.3d at 616.

12 Here, Defendants have blatantly ignored this matter after they filed their  
13 Declaration and Notice of Hearing. [See Dkts. 17-19, 25.] Defendant Hall's  
14 decision not to file a timely response, in spite of the Court's order, after filing the  
15 Declaration and Notice of Hearing is blatantly intentional, and thus, would not  
16 constitute excusable neglect. Moreover, defendant Pacific has failed to properly  
17 appear in this matter altogether, which cannot constitute excusable neglect.

18 **F. Policy Concerns Favor Default Judgment In This Matter.**

19 Although courts have expressed that as a general rule, policy favors decisions  
20 on the merits, cases should be decided on its merits only when *reasonably possible*.  
21 *See Pena v. Seguros La Comercia, S.A.*, 770 F.2d 811, 814 (9th Cir. 1985)  
22 (emphasis added). The policy preference to decide a case on its merits is not  
23 dispositive, and thus does not preclude a court from granting a default judgment.  
24 *See Penpower Tech, Ltd.*, 627 F. Supp. 2d at 1093 (defendant's failure to respond to  
25 a Complaint makes a case decision on its merits impractical, if not, impossible).

26 Here, even the policy concerns to decide a case on its merits favor Balboa to  
27 grant Balboa's request for a default judgment. As detailed in II.E., *supra*,  
28 Defendants have made it abundantly clear that they will not further participate in

1 this litigation. Defendants have deliberately chosen a course of action to simply  
2 ignore this action after they filed their Declaration and Notice of Hearing, despite  
3 the Court's order directing defendant Hall to file a response by March 10, 2025.  
4 [See Dkts. 17-19, 25.] Thus, the Court's decision will not be based on the merits of  
5 this case since there is no reasonable possibility at this point given Defendants'  
6 refusal to participate further in this litigation.

7 Moreover, policy concerns certainly do not weigh in favor of rewarding  
8 Defendants for their unwillingness to account for their liability to Balboa, and the  
9 extremely prejudicial windfall they would receive should their deliberate silence  
10 and stalling techniques be rewarded, at Balboa's expense. *See* Section II.A., *supra*.

11 **G. Plaintiff Has Proven Its Damages.**

12 Under the terms of the SRA, Defendants agreed to make fifty-two (52)  
13 monthly payments of \$3,135.16 on the 22nd of each month, beginning June 22,  
14 2022, for a total of \$163,028.32 to settle for breach of the EFA. [See Ngo Decl.,  
15 ¶3., Exh. A.]

16 The last payment received by Balboa was credited toward the payment due  
17 for May 22, 2024. [See *id.*, ¶4, Exh. B.] Therefore, on June 22, 2024, Defendants  
18 breached the SRA by failing to make the monthly payment due on that date, and  
19 thus, have remained continuously in default. [See *id.*]

20 At the time of Defendants' default, there remained twenty-eight (28) monthly  
21 payments under the SRA for the EFA, for a total of **\$87,784.48**, due to Balboa.  
22 [See *id.*, ¶5.]

23 In addition, based on the amount due of \$87,784.48, Balboa is entitled to  
24 prejudgment interest at the statutory rate of ten percent (10%) per annum pursuant  
25 to Civ. Proc. Code § 3289, from June 22, 2024, the date of breach, to April 24,  
26 2025, the date noticed for the hearing of this Motion for Default Judgment, for a  
27 total interest amount of **\$7,383.35**, accruing at a rate of **\$24.05 per day**, until the  
28 entry of judgment. [See *id.*, ¶6; *see also* Chen Decl., ¶¶8-9.]

Pursuant to Section 8.16 of the SRA, Balboa is entitled to recover its attorneys' fees and costs sued upon herein from Defendants. [See Chen Decl., ¶7; Ngo Decl., Exh. A.] The amount of reasonable attorneys' fees is fixed by Local Rule 55-3, in the sum of **\$5,111.37** for the SRA. [See Chen Decl., ¶7.] Balboa has indeed incurred **\$655.00**, which is comprised of a \$405.00 filing fee for the Complaint, \$125.00 for the service of process fees for Pacific Logging and \$125.00 for the service of process fees for Hall. [See *id.*, Exh. C.]

Altogether, this totals out to **\$100,934.20** (as of April 24, 2025), calculated as follows:

- Amount Owed:	\$87,784.48
- Prejudgment Interest:	\$ 7,383.35
- Recoverable Costs:	\$ 655.00
- <u>Attorneys' Fees:</u>	<u>\$ 5,111.37</u>
- Total:	<b><u>\$100,934.20</u></b>

### III. CONCLUSION

Based on Balboa's Complaint, Default Judgment Motion, and all supporting papers, Balboa respectfully requests that the Court grant its Default Judgment Motion against Defendants, in the total amount of **\$100,934.20**.

DATE: March 26, 2025

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